HOUSE RESEARCH ORGANIZATION

focus report

Texas House of Representatives

June 25, 1999

Vetoes of Legislation — 76th Legislature

Gov. George W. Bush vetoed 33 measures approved by the 76th Legislature during its 1999 regular session. The vetoed measures included 24 House bills, seven Senate bills, one House concurrent resolution, and one Senate concurrent resolution.

This report includes a digest of each vetoed bill, the governor's stated reason for the veto, and a response concerning the veto by the author or the sponsor of the bill. If the House Research Organization analyzed a vetoed bill, the *Daily Floor Report* in which the analysis appeared is cited.

A summary of the governor's line-item vetoes to HB 1 by Junell, the general appropriations act, will appear in House Research Organization State Finance Report No. 76-3, *The General Appropriations Act for Fiscal 2000-2001*.

Contents

Creating an Internet voter information guide for judicial elections

HB 59 by Cuellar (Duncan)

DIGEST:

HB 59 would have allowed the secretary of state to compile information about judicial candidates and make it available to the public on the Internet. Information in the voter guide would have to have included statements from the candidates summarizing their current occupation, educational and occupational background, biographical information, and any previous governmental experience. The secretary of state would have been required to review each candidate's statement, notify the candidate if it were rejected, and allow the candidate time to resubmit a rejected statement. The secretary of state could have included appropriate explanatory material in the voter information guide, including a statement that voters could use it at the polls to assist them in marking their ballots. The guide would have to have been made available at least 45 days before the election.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 59 creates an inappropriate role for the secretary of state by requiring that office to post information on the Internet about judicial candidates. Information about candidates should be distributed by the candidates themselves, political parties, and other private organizations, not by government officials. Additionally, this proposal might create the false impression that the secretary of state guarantees the truth of information provided by the candidates."

RESPONSE:

Rep. Henry Cuellar, the author of HB 59, said: "It's unfortunate that the governor vetoed this innovative way of making information accessible to the public. Anyone familiar with judicial races knows that there is an information gap between the public and candidates. This would have been a good step toward providing citizens more information on who they are voting for in judicial races."

Sen. Robert Duncan, the Senate sponsor, said: "One of the problems with the existing judicial election system is the lack of information about the candidates in the hands of the voters. This bill would have provided one-stop shopping, making it easier for the average voter to become a more informed voter. I am disappointed that Texans will not have this information readily available on the Internet."

NOTES:

HB 59 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Establishing a community investment program

HB 64 by Greenberg (Lucio)

DIGEST:

HB 64 would have required the Texas Department of Economic Development (TDED) to establish the Texas Community Investment Program for the purpose of providing grants, interest-free loans, or investments in businesses that could not qualify for conventional bank loans and that were located in economically distressed areas of Texas. Support would have been provided through community development investors, defined as federally certified community development financial institutions and multibank community development corporations set up to provide funds to businesses employing low- and moderate-income persons and making loans and investments to disadvantaged businesses.

A community development investor would have been eligible for the program if the entity had raised at least $400,000 in private investments. The maximum amount that a community development investor could have loaned to a single business would have been $200,000 for a direct loan or $100,000 if any of the company's debt to the investor was subordinated to a bank or other entity. A community development investor could have made a maximum equity investment of $50,000 in a single business. The bill made no appropriation but would have required TDED to establish the community investment program if money were appropriated to fund it.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 64 is similar to a bill vetoed last session. The bill proposes using taxpayer dollars to fund private community investment programs that make loans to businesses that cannot qualify for conventional bank loans. This program was not funded by the Legislature."

RESPONSE:

Rep. Sherri Greenberg, author of HB 64, said: "The Community Investment Program is proven to create jobs in economically distressed neighborhoods. Unfortunately, the program was not funded in the appropriations bill."

NOTES:

HB 64 was analyzed in the April 21 *Daily Floor Report.*

SB 1877, a similar bill vetoed in 1997, was reviewed in House Research Organization Focus Report Number 75-16, *Vetoes of Legislation — 75th Legislature.*

Neighborhood association enforcement of health and safety ordinances

HB 247 by Puente (Wentworth)

DIGEST:

HB 247 would have allowed cities to use volunteers from neighborhood associations to help enforce certain municipal health and safety ordinances for which violations could be observed without entering the property. Cities would have had to establish training programs to instruct volunteers on which ordinances would be covered and whether or how a volunteer would have informed a property owner of the alleged violation. Volunteers observing suspected violations could have informed the property owner or resident and the appropriate city agency. Notice of the violation would have been considered the first warning of a violation of a city ordinance.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 247 gives unprecedented authority to private citizens to act as enforcers of city ordinances. This authority should rest with city officials."

RESPONSE:

Rep. Robert Puente, the author of HB 247, said: "The intent of this legislation was to empower individuals whose neighborhoods cannot rely on deed restrictions or mandatory neighborhood association regulations to ensure that property owners keep their property up to code. HB 247 would have taken advantage of the desire of most citizens to become more involved in their neighborhoods."

Sen. Jeff Wentworth, the Senate sponsor, had no comment on the veto.

NOTES:

HB 247 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring evidence of committee review of school waiver applications

HB 617 by Ehrhardt (West)

DIGEST:

HB 617 would have required that, for each waiver of rules or law submitted by a school district or campus, the chair of the appropriate district- or campus-level committee comment on the application and sign it, evidencing that a majority of the committee members had reviewed the application. For district-level waivers, signatures would have been required of the chair of the district-level committee and the chair of each campus-level committee at each campus that would be affected by the waiver.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 617 has the good intention of encouraging involvement in Texas schools, but has the unintended consequence of undermining local school board authority and delaying the process of waiver requests."

RESPONSE:

Rep. Harryette Ehrhardt, the author of HB 617, said: "The Office of the Governor was truly disappointing this week. HB 617 was a simple bill to enhance the ability of parents, teachers, and community leaders to participate in the success of their local schools through site-based decision-making committees. It gave no new authority to these committees, it did not increase any cost or paperwork which is not now required by statute, and it was the most basic expression of local control that we can ever expect in our public school system. But apparently site-based decision-making, which was set up by the Legislature years ago and is required of every school district in the state, is new ground for the governor.

"This is the second consecutive session that our Legislature has passed this bill. Last session, it was amended to a bill that was vetoed as well. We were never given any reason to believe that the governor opposed this provision of that vetoed bill. This session, when I called from the floor of the House chamber to see if there was any problem with the bill, I was told that it 'wasn't even on the radar screen.' My staff called the governor's office three times after the bill passed both houses to offer any needed explanation. We were told he had not considered it yet. The professional groups interested in the bill made themselves available to the governor's staff and no one took advantage of our offer as a resource.

"No one ever contacted my office in Austin or my office in Dallas following the passage of the bill. The first contact from the governor's office came at 9:39 p.m., Friday, June 18 (50 hours and 21 minutes before the constitutional deadline for a governor's veto) and the second the next day.

"The calls were made to my home and I had just left for a weekend with my husband. When I returned after the governor's veto, I listened to a message from a member of the governor's staff, who wanted 'to visit with you about a bill...we had a few concerns about...which would allow a campus-based committee to overrule a waiver application by a public school or district.' This indicated to me a complete misunderstanding of the bill's effect. Very simply, the bill only guarantees that a majority of the appropriate site-based decision-making committee members would *be informed* and have a chance to *comment* on waiver applications.

"One of three things happened here. (1) The governor did not understand the bill but vetoed it. (2) The governor really does not want to guarantee that parents, teachers, and community leaders locally selected to serve as volunteers on the school's site-based committee will have a chance to comment on decisions that are important to their schools. (3) The governor, like a dilettante crown prince of American politics, thought he could traipse off to New Hampshire and Iowa during his post-session responsibilities and still get the job done. (Note: the Texas Constitution, in anticipation of a *sine die* crunch, provides an extra 10 days to the governor for review of bills at the end of each session.)

"I really don't know which one disturbs me the most."

NOTES:

HB 617 was analyzed in Part Two of the May 7 *Daily Floor Report*.

Optional career and technology programs and certificates

HB 1418 by Seaman (Armbrister)

DIGEST:

HB 1418 would have created a career and technology program and certificate that school districts could implement at their discretion, in addition to any authority already given to districts to develop career and technology programs. Under the program, a student could have received a career and technology certificate in addition to a diploma or certificate of coursework completion.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 1418 creates a new 'certificate of initial mastery' which could dilute Texas' effort to insist on high academic standards for our public schools."

RESPONSE:

Rep. Gene Seaman, the author of HB 1418, said: "House Bill 1418 does not create a 'certificate of initial mastery' and does not contain any provision relating to that term. The veto also states that the bill would dilute academic standards, but the certificate awarded under House Bill 1418 would be in addition to existing graduation requirements and create a 'diploma plus.' To ensure that House Bill 1418 would not lessen academic standards nor replace a diploma, the bill was amended, at the governor's request, to include a provision stating that the certificate was not in lieu of a diploma. The governor's objections to the legislation do not conform with the actual content of the bill."

Sen. Ken Armbrister, the sponsor of HB 1418, said: "This bill is not a mandate; it is entirely voluntary. The language added in the Senate came from the governor's legislative staff. When you put in language that the governor's office asks for and then they veto it, it is difficult to understand their reasoning for it. This smells of catering to the Eagle Forum folks rather than doing what's right for the nontraditional academic students."

NOTES:

HB 1418 was analyzed in Part Two of the May 3 *Daily Floor Report*.

Special education advisory panel membership

HB 1733 by Luna (Zaffirini)

DIGEST:

HB 1733 would have removed the 17-member limit on the governor's continuing advisory panel on special education. It also would have prohibited a parent of a special education child from serving on the advisory panel as a parent of a child with disabilities if the parent was an employee of a school district or of a special education service provider.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 1733 removes from the Texas Education Code the 17-member limit on the size of the special education advisory panel. This change could create undue pressure to expand the panel's membership to an unworkable size and thus severely impair its capacity to function effectively. Further, the bill unfairly prohibits a parent of a child with disabilities from serving on the panel if the parent is an employee of a school district or a program that delivers services under the Individuals with Disabilities Education Act."

RESPONSE:

Rep. Vilma Luna, the author of HB 1733, and Sen. Judith Zaffirini, the Senate sponsor, issued a joint statement: "The statewide Continuing Advisory Committee for Special Education, a federally mandated oversight committee, ensures that school districts provide special education students appropriate education services. The committee's responsibilities include advising the state education agency regarding the unmet educational needs of children with disabilities and commenting publicly regarding rules and statutes proposed by the state that affect children with disabilities.

"Committee members are appointed by the governor. Federal law requires, among other things, that a majority of the committee members consist of 'parent representatives,' which the United States Code defines as parents of children with disabilities. State law allows school district employees and employees of programs or agencies that provide special education or related services to also serve as parent representatives. As a result, some members of the committee serve in the dual capacity of parent representative and teacher, special education administrator, or provider of related services. This presents a conflict of interest because these parent representatives who serve in a dual capacity often cannot address adequately the unmet needs of children with disabilities. HB 1733 would have ensured that individuals designated as parent representatives consist solely of parents of children with disabilities who currently are receiving special education services and who are not employed by a school district or a provider of special education-related

services. This bill would have applied only to parent representatives and would not prevent employees of school districts or of special education service providers from participating on the advisory committee in any other capacity.

"In his official memorandum outlining the reasons for the veto, Gov. Bush reasoned that the bill would alter the 17-member limit on the size of the Continuing Advisory Committee for Special Education and would impair severely its ability to function effectively. HB 1733, however, would not require Gov. Bush to expand beyond 17 the number of panel members.

"As another reason for the veto, Gov. Bush contends that the bill would unfairly prohibit a parent with a child with disabilities from serving on the committee if the parent is an employee of a school district or of a special education service provider. HB 1733 would not prohibit these members from participating on the committee. It would, however, require those committee members designated as parent representatives to be parents of school-aged students who currently are receiving special education services."

NOTES:

HB 1733 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Validating water district acts and proceedings

HB 1847 by Hill (Madla)

DIGEST:

HB 1847 would have amended Water Code, chapters 36 and 49 to validate governmental acts and proceedings of groundwater conservation districts and of certain river authorities and water districts one year after their effective date. The bill would not have applied to acts or proceedings in cases where a lawsuit to annul or invalidate had been filed within the first year.

Other acts and proceedings not validated by the bill would have included those constituting misdemeanors or felonies under state or federal law and those preempted by certain alcoholic beverage statutes. The bill would not have validated acts and proceedings of navigation districts, port authorities, and groundwater conservation districts created under general or special law or of conservation and reclamation districts created under Water Code, chapter 62.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 1847 creates an unreasonable one-year statute of limitations on a citizen's right to challenge the wrongful governmental acts of hundreds of special-purpose districts across the state, including conservation districts, reclamation districts, municipal utility districts, irrigation districts, river authorities, and drainage districts. Citizens should have more time to challenge those governmental actions, as they do under similar laws that currently apply to other governmental entities."

RESPONSE:

Rep. Fred Hill, the author of HB 1847, had no comment on the veto.

NOTES:

HB 1847 was analyzed in the May 12 *Daily Floor Report*.

Judicial authority over certain contracts entered into by minors

HB 1851 by Thompson (Harris)

DIGEST:

HB 1851 would have made numerous revisions to the laws governing court-appointed guardianships for persons who are minors or incapacitated. It also would have allowed courts, upon a petition by a party to a contract, to approve an arts and entertainment, advertisement, or sports contract entered into by a minor. Courts could have required that up to one-half of the minor's net earnings under the contract be set aside and preserved for the minor's benefit in a trust. A valid contract would not have been voidable solely on the grounds that it was entered into while a person was a minor. Courts could have appointed a guardian ad litem for a minor who had entered into an arts and entertainment, advertisement, or sports contract if this would be in the minor's best interest.

GOVERNOR'S REASON FOR VETO:

"House Bill 1851 would permit a court to validate, without parental approval, a minor child's long-term contract with a sports team, entertainment agency, or other party. It would also take away the child's rights under current Texas law to modify or terminate the contract after reaching the age of eighteen. This bill fails to recognize the importance of the parent-child relationship and could lead to the exploitation of minors."

RESPONSE:

Rep. Senfronia Thompson, the author of HB 1851, had no comment on the veto.

Sen. Chris Harris, the sponsor of the bill, said: "Many provisions of this bill were positive improvements, and we will need to come back next session and sort through them again."

NOTES:

HB 1851 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Impact fees imposed by cities on new developments

HB 2045 by Brimer (Harris)/HCR 310 by Brimer

DIGEST:

HB 2045 would have altered the way in which cities calculate the impact fees they charge on new developments to recoup the costs the city may incur for capital improvements or facility expansions. The bill would have required the calculation of impact fees to include a credit equal to 50 percent of the total cost of improvements included in the capital improvement plan or a credit for the portion of the property tax and utility service revenue generated by new service units that are used to pay for capital improvements.

HB 2045 also would have provided that impact fees could be collected only at the time a building permit was issued if water and wastewater capacity were available, and it would have required cities to certify to the attorney general their compliance with impact fee statutes.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2045, which addresses 'impact fees' paid by developers, could cause an increase in property taxes and force additional costs of new development upon existing residents. This proposal would also restrict the flexibility of local governments to determine how to pay for new development. This bill addresses an important issue that needs to be considered further during the interim."

RESPONSE:

Rep. Kim Brimer, the author of HB 2045, said: "HB 2045 was passed to address a situation of *double taxation* that exists in Texas cities which charge impact fees. These fees are paid up front in the cost of the house and then paid again as the homeowner pays property taxes and wastewater service fees. So the homeowner pays twice for the same service. This leads to higher housing costs. Testimony in the House Committee on Natural Resources revealed these fees can run as high as $12,000.

"HB 2045 would have *reduced housing costs* by implementing a balanced calculation of these impact fees and changing the timing of payment of the impact fees from the time of platting to the time of the building permit. The timing of payment would save builders interest costs and further reduce the price of a home.

"We were told in last interim's tax study that Texas ranks *44th* in affordable housing and one-quarter of the average Texan's house payment goes toward taxes. Middle- and lower-income Texans are extremely price-sensitive on the purchase of a new home. *It is estimated that a $1,000 cost savings would put*

30,000 more Texans in their own homes, and a $1,000 to $3,000 savings would put 100,000 more Texans in homes.

"The governor cites increased property taxes and additional costs of new developments upon existing residents as reasons for vetoing HB 2045.

"Impact fees were originally designed to help cities pay for infrastructure costs *for new developments only*. If a city must increase property taxes for current residents because they would have to charge a reasonable impact fee, this must mean those cities' impact fees are currently funding projects outside the new development and overcharging new home owners. This is an abuse of the law and evidence in itself of the double taxation in some Texas cities.

"New developments actually increase the property tax base and increase revenues to the cities. A study done by the Real Estate Center at Texas A&M University showed that new subdivisions *more than pay for* the incremental costs to the city *and* allow the cities to make additional capital improvements in the community. However, these positive impacts are *not even considered* in the fees.

"The bill did not ask the cities to give up the impact fees. The bill simply asked cities to stop the double taxation and include ad valorem taxes and water and wastewater fees in the calculation of the impact fee.

"Since there is no standard formula, each city calculates their fee differently. We held eight negotiation sessions with the Texas Municipal League (TML), which resulted in no practical compromise. We asked the TML to determine a formula for calculating these fees. They could not produce one. The bill as filed even allowed an independent third party, the TNRCC [Texas Natural Resource Conservation Commission], to devise a formula for these fees. TML did not support this either.

"Not only did TML not support the bill. They actively lobbied against the bill at every step of the process, finally achieving their goal with the governor's veto.

"A development in Mansfield, in my district, exemplifies the consequences of this double taxation. Developers expecting to develop a new residential community are now reconsidering the feasibility of the project because of the costs attributed to the impact fees. This bill would have alleviated their

issues. Booming cities all over Texas will start to experience this backlash to

exorbitant impact fees.

"I look forward to continuing the work done on this issue in the interim. Surely, putting 30,000 Texans into a new home is a worthy goal."

Sen. Chris Harris, the sponsor of the bill, said: "This was a good bill to equalize and standardize how impact fees are assessed in different cities across the state. The problem with impact fees is they are essentially a tax on homeowners and substantially add to homeowners' costs over the lifetime of a mortgage."

NOTES: HB 2045 was analyzed in the May 12 *Daily Floor Report.*

The governor also vetoed HCR 310 by Brimer, which would have made technical corrections to HB 2045.

Fireworks sales tax to fund rural volunteer fire department assistance

HB 2107 by Cook (Armbrister)

DIGEST:

HB 2107 would have imposed a 2 percent tax on the sale of fireworks in addition to the state sales tax. Proceeds from the added tax would have been used to fund a new program to help rural volunteer fire departments buy equipment and train personnel. The Texas Forest Service would have had to administer the program and to appoint a five-member advisory committee.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2107 imposes an unwarranted tax increase on fireworks that would force the effective sales tax in some areas of the state to exceed the statutory limit of 8.25 percent. The bill would compel consumers to pay for a new fire prevention program that duplicates an established and already funded program controlled and implemented by the Commission on Fire Protection. The commission's existing program addresses the issues raised by this bill, thus rendering it unnecessary."

RESPONSE:

Rep. Robby Cook, the author of HB 2107, said: "We were fairly disappointed. I can understand the governor's philosophical reasons relating to taxation, but we were looking for something just to focus on them [the volunteer fire departments]. It still is a very worthwhile cause, and I plan to sponsor the bill again." Rep. Cook said that the bill was brought to him by the volunteer fire departments but also was agreed to by the fireworks industry and that the bill had been in the works for about five years.

Sen. Ken Armbrister, the Senate sponsor, said: "The governor's reason is totally wrong. He needs to reexamine his staff's recommendation. You can't sell fireworks within 1,000 feet of a city's ETJ [extraterritorial jurisdiction], so how could this bill exceed the 2 percent cap [on local taxes]? This bill has been worked on for five years between the Texas Forest Service and the volunteer fire departments and was finally agreed to this session by the fireworks industry. Last year, all those grass fires were fought by volunteer fire departments — not cities — and the state spent millions of dollars fighting those fires."

NOTES:

HB 2107 was analyzed in the April 20 *Daily Floor Report*.

HB 1 by Junell, the general appropriations act for fiscal 2000-01, included an appropriation of $769,000 for the rural volunteer fire department assistance program, contingent on enactment of HB 2107. The governor deleted the appropriation by issuing a line-item veto.

Creating a State Board of Mechanical Industries

HB 2155 by Yarbrough (Harris)

DIGEST:

HB 2155 would have established a nine-member State Board of Mechanical Industries to regulate plumbers, people who install or service residential water-treatment facilities, air conditioning and refrigeration contractors, irrigators, and providers of other related services. It also would have:

- abolished the State Board of Plumbing Examiners and transferred the administration of the plumbing licensing laws to the new board;
- removed the Board of Health from administering certification standards for people who install or service residential water-treatment facilities;
- abolished the Air Conditioning and Refrigeration Contractors Advisory Board and transferred from the Department of Licensing and Regulation to the new board the administration of laws relating to air conditioning and refrigeration contractors;
- abolished the Texas Irrigators Advisory Council; and
- transferred from the Texas Natural Resource Conservation Commission to the new board the regulation of public drinking water supply connections to other systems, of environmental performance standards for plumbing fixtures, and of irrigators.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2155 abolishes the Plumbing Board and merges it into the newly created State Board of Mechanical Industries, which will also regulate the lawn irrigation and air conditioning industries. The existing system that regulates these varying professionals is preferable."

RESPONSE:

Rep. Ken Yarbrough, the author of HB 2155, said: "Gov. Bush's veto of HB 2155 would leave one with the impression 'if it's not broke, why fix it.' The fact of the matter is that it is broke. TNRCC commissioners no longer want the responsibility for the irrigators and water treatment people at their agency. The air conditioning and refrigeration contractors should have been joined with the plumbers when their regulations were first enacted in 1983. All of the affected groups strongly wanted to be a part of the new agency.

"This legislation would have addressed Gov. Bush's plan to streamline licensing and certification processes, reduced government bureaucracy, and promoted efficiency by reorganizing existing boards.

"Perhaps I have the wrong impression of the governor's plan for a better and more efficient government for Texas."

Sen. Chris Harris, the sponsor of the bill, said: "We'll have to look at this again next session to see which programs can be consolidated more efficiently."

NOTES:

HB 2155 was analyzed in the May 7 *Daily Floor Report*.

The governor also used his line-item veto authority to delete a contingency rider found in Article 9 of HB 1 by Junell, the general appropriations act for fiscal 2000-01, that related to funding the new board.

Regulation of chiropractors

HB 2175 by Uher (Armbrister)

DIGEST:

HB 2175 would have replaced provisions that make the unlicensed practice of chiropractic a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of $4,000, with a provision requiring the Board of Chiropractic Examiners to bring actions for injunctive or other civil proceedings necessary to enforce the act. Current law authorizes the board to impose administrative and civil penalties for violations of chiropractic laws or rules.

The bill would have repealed a provision in current law that specifies that a person who violates any provision of the Chiropractic Practice Act is guilty of a misdemeanor punishable by a fine of $50 to $500 or by a 30-day county jail sentence. It also would have amended requirements for the records that the board keeps on licensees.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2175 lowers the standards for regulation of chiropractors, including deleting the criminal penalties the Texas Board of Chiropractic Examiners may currently impose for certain violations. Chiropractors should be held to the same standards as other health care providers to ensure the safety and health of the public."

RESPONSE:

Rep. Tom Uher, the author of HB 2175, said: "I intentionally designed the bill to give the chiropractic board injunctive powers and to stop the unauthorized practice of chiropractic. Additionally, we provided for civil penalties. It was a dumb veto."

Sen. Ken Armbrister, the Senate sponsor, said: "Until his informed staff can show me how it does that, I will respectfully disagree. Those issues never came up in committee hearings, never were debated on the floor of either house, and never came up in my almost daily conversation with his legislative staff."

NOTES:

HB 2175 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring written explanations of summary judgment rulings

HB 2186 by Dutton (Ellis)

DIGEST:

HB 2186 would have required a judge who granted a summary judgment motion to specify in writing the grounds on which the motion was granted on the same date on which the motion was granted. It also would have restricted a court, when ruling on an appeal of a summary judgment motion, to the reasons given in the judge's written explanation.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2186 proposes an unnecessary and confusing change to summary judgment law in civil cases. The proposed new requirements for trial judges conflict with the existing rules adopted by the Texas Supreme Court. This bill would discourage the speedy resolution of civil cases and encourage frivolous lawsuits."

RESPONSE:

Rep. Harold Dutton, the author of HB 2186, said that he was "surprised by the governor's decision to veto the bill." The bill passed both the House and the Senate with only one vote in opposition in each chamber. There was no reason to expect that the governor would veto this bill counter to the wishes of the majority of the Legislature. "I am left in a quandary about the governor's reason for vetoing this bill," Rep. Dutton said. Some judges and others, primarily defense-oriented, were opposed to the bill, but to suggest that the bill would have encouraged frivolous lawsuits is ridiculous. The Rules of Civil Procedure require judges to decide summary judgment motions using certain criteria, and this bill simply would have required judges to write their reasoning down. Vetoing this bill allows judges to do something absent the sunshine of public disclosure, and that usually suggests a bad motive. "The governor's veto proclamation also said that the bill was unnecessary and confusing. The only thing confusing is the governor's real reasons for vetoing this bill, because none of the stated reasons make any sense," Rep. Dutton said.

NOTES:

HB 2186 was analyzed in Part Two of the May 6 *Daily Floor Report*.

Online computer roster of licensed engineers

HB 2300 by Hunter (Ellis)

DIGEST:

HB 2300 would have required publication of a roster of persons or business entities licensed, registered, certified, or enrolled by the Texas State Board of Professional Engineers, to be made available without cost to the public in an online computer database format. A reproduction and shipping fee could have been charged for physical copies.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2300, which requires the Texas State Board of Professional Engineers to publish a roster of its licensees on the Internet, is unnecessary, because House Bill No. 1544, which I have signed into law, better fulfills the same purpose."

RESPONSE:

Rep. Bob Hunter, the author of HB 2300, said: "The governor vetoed HB 2300 by Hunter since the content of this bill was included in its entirety in HB 1544 by Haggerty." Rep. Hunter said that HB 2300 would have made it possible for the Board of Professional Engineers to publish its directory electronically in order to save the state money each year.

NOTES:

HB 2300 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report.*

HB 1544 by Haggerty was analyzed in Part One of the May 7 *Daily Floor Report.* Among other provisions, it requires that engineering businesses register annually with the Board of Professional Engineers and that the board publish a roster of registered businesses, making it available in an online database format.

Authorizing counties to sell real property for economic development

HB 2388 by Jim Solis (Madla)

DIGEST:

HB 2388 would have authorized a county commissioners court to sell or lease real property of the county for use in an economic development project if the county had acquired the property on or before September 1, 1999. The commissioners court could have sold real property for less than its appraised fair market value under certain conditions. The sale or lease of property for this purpose would have been exempt from Local Government Code requirements that a county's real property be sold pursuant to an auction or sealed bid procedure.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2388 would authorize county commissioners to sell public property without public notice or a competitive bidding process. The bill would also allow county commissioners to sell public property to private individuals at less than fair market value."

RESPONSE:

Rep. Jim Solis, author of HB 2388, said: "It is unfortunate the governor was misinformed on this bill. It would have been an effective economic development tool for counties to sell property they already own. Often, counties find themselves owning land which is not being utilized for county purposes and also is difficult to sell. This bill would have solved that problem and could have enticed businesses to locate in counties with these problems."

NOTES:

HB 2388 was analyzed in Part Two of the May 11 *Daily Floor Report*.

Establishing the salary of the Dallas County judge

HB 2536 by Y. Davis (West)

DIGEST:

HB 2536 would have required the commissioners court of Dallas County to set the annual salary of the county judge at an amount at least $1,000 more than the total annual salary received by a judge of a county criminal court at law in Dallas County.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2536 inappropriately determines the pay of the county judge of Dallas County. The Dallas County commissioners court is best equipped to determine the appropriate compensation of its county judge."

RESPONSE:

Neither Rep. Yvonne Davis, the author of HB 2536, nor Sen. Royce West, the Senate sponsor, had a comment on the veto.

NOTES:

HB 2536 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Applying open meetings/open records laws to certain nonprofit corporations

HB 2557 by Glaze (Ratliff)

DIGEST:

HB 2557 would have amended the open meetings and open records laws to include certain entities eligible to receive funds under the federal community services block grant program. It would have added to the definition of "governmental body" subject to these laws a nonprofit corporation organized under Water Code, chapter 67, and a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by the state to serve a geographic area in Texas.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2557, designed to solve one specific problem, could subject nonprofit and faith-based organizations in Texas to unnecessary government intrusion. The intent of this legislation, to ensure public accountability for certain community services block grant funds, is better accomplished through rulemaking by the Texas Department of Housing and Community Affairs. My office has directed the department to review its rules, policies, and contracts to ensure fiscal accountability."

RESPONSE:

Rep. Bob Glaze, author of HB 2557, said: "I am concerned and disappointed that Gov. Bush would veto a bill that would have ensured public accountability by groups spending taxpayer dollars on programs designed to help the poor, the disabled, and the elderly. It does not make sense to me that something should be vetoed that simply exposes the records of where taxpayer dollars go. I would refer them to the confidential auditor's report of March 31, 1999, of the East Texas Human Development Corp., the organization that prompted this bill." (HUDCO in Marshall, one of 56 community action agencies in Texas, was accused last summer of financial mismanagement.)

"The legislation was designed to provide scrutiny for contracts and subcontracts for services such as Head Start, weatherization, meals programs for the elderly, and energy programs. It would have closed a loophole in the open meetings and open records laws. I definitely will try again [to pass it]. I think faith-based organizations are an ideal host as long as they understand going in that the contract will be reviewed by the public. The intent is great. The need is there. But people administering a program are just people and they can make mistakes unintentionally and intentionally."

Sen. Bill Ratliff, Senate sponsor of the bill, said: "I was supporting Rep. Bob

Glaze in his efforts to try to address a specific problem in his district and mine with HUDCO and his efforts to try to bring some accountability to that group. I will probably take my lead from him as to what we try to do next. The governor's veto message suggested this could be accomplished by rulemaking. We have a year and a half to see whether that process works."

NOTES:

HB 2557 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report.*

Collection of court fines, fees, and other costs

HB 2725 by Pickett (Lucio)

DIGEST:

HB 2725 would have allowed county commissioners courts that enter into contracts with private attorneys to collect fines, fees, restitution, and other costs to authorize these attorneys to collect an additional 28 percent on each debt that is more than 60 days past due. Defendants would not have been liable for the 28 percent fee if they were indigent, had insufficient resources or income, or were otherwise unable to pay the original fine or fee. Bond forfeitures would have been added to the list of items that may be collected under a contract.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2725 gives attorneys an unfair advantage over other debt collection businesses."

RESPONSE:

Rep. Joe Pickett, the author, said that HB 2725 was not a major part of his legislative agenda but that he will continue to work on the issue next legislative session.

Sen. Eddie Lucio, the Senate sponsor, said: "House Bill 2725 by Rep. Pickett, in my opinion, would not have given attorneys an unfair advantage over other debt collectors. Attorneys are already allowed to collect outstanding debts from defendants in criminal cases and are already charging attorney fees to the counties for their services. House Bill 2725 would have allowed these attorney fees to be collected from the defendants themselves rather than the counties. Consequently, without House Bill 2725 in effect, the attorneys will continue to charge legal fees for the services they provide to the counties, but the counties will be responsible for the payment of these legal fees instead of collecting them from the defendants themselves."

NOTES:

HB 2725 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Automated motor vehicle inspection system and fee

HB 2794 by Gutierrez (Wentworth)

DIGEST:

HB 2794 would have required the Department of Public Safety (DPS) to develop an automated motor vehicle inspection system. DPS could have charged inspection stations participating in the automated system a $2 fee for each inspection certificate, and inspection stations could have charged a $2 fee for each inspection performed.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2794 proposes to increase the fee charged for an annual vehicle safety inspection by two dollars, an unnecessary increase."

RESPONSE:

Rep. Roberto Gutierrez, the author of HB 2794, said: "This bill should have been passed two years ago. I can understand the concern with HB 2794 since the $2 fee increase authorized in this bill, coupled with a $2 increase included in the DPS sunset bill, would have resulted in a 30 percent increase in the inspection fee. However, this bill is needed to help combat the growth in counterfeit inspection stickers. As counterfeiters become more sophisticated, it is becoming more difficult to detect fake stickers. HB 2794 would have allowed DPS to implement a bar code system on the inspection stickers that would have been more difficult to counterfeit. Without HB 2794, DPS will not have the funds to implement the new system. I plan to refile this legislation next session because of its importance."

Sen. Jeff Wentworth, the Senate sponsor, had no comment.

NOTES:

The governor used his line-item veto authority to eliminate from HB 1 by Junell, the general appropriations act for fiscal 2000-01, a contingency appropriation of about $22.5 million per year for HB 2794. Under the contingency appropriation, the amount appropriated could not have exceeded the revenues from the new fee authorized by the bill.

HB 2794 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Creating the Aldine Community Improvement District

HB 2891 by Bailey (Gallegos)

DIGEST:

HB 2891 would have created the Aldine Community Improvement District to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the Aldine Community area of Harris County. The district would have been authorized to impose a sales and use tax as long as the combined rate of all sales and use taxes imposed by the county and other political subdivisions within it did not exceed 2 percent at any location in the district. The bill also would have specified the district's responsibilities and authority in other matters.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 2891 proposes to allow directors of a municipal improvement district in the Aldine area of Harris County to impose a sales tax without voter approval. The safeguard of voter review is necessary to ensure that district residents have a role in the district's financial decisions."

RESPONSE:

Rep. Kevin Bailey, the author of HB 2891, said: "I am saddened that Governor Bush chose to veto a project that was initiated by a bipartisan committee of civic and business leaders in the Aldine community. Its veto will mean that Aldine residents will continue to be treated as second-class citizens without access to clean water, sanitary sewer systems, fully funded youth and senior's programs, or adequate law enforcement presence."

Sen. Mario Gallegos, the Senate sponsor, had no comment on the veto.

NOTES:

HB 2891 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Harris County Regional Flood Control Plan, federal permit certifications

HB 2977 by Hamric (Lindsay)

DIGEST:

HB 2977 would have allowed Harris County and the Harris County Flood Control District to cooperate to develop and adopt a regional flood control plan. The district could have purchased land and facilitated alternative wetland mitigation programs, including the imposition of fees, instead of requiring specific wetland mitigation activities. The bill would have stated that the policy of the Texas Natural Resource Conservation Commission (TNRCC) would be to promote compensatory wetland mitigation or payment of fees to substitute for wetland mitigation in compliance with water quality standards.

HB 2977 also would have required TNRCC to waive certification reviews under sec. 401 of the federal Clean Water Act until September 1, 2001, for projects undertaken in the Harris County Flood Control District, as long as the district had begun development of a regional flood control plan. TNRCC would have had to waive certification unless certain federal requirements applied to the project.

Under sec. 401 of the Clean Water Act, TNRCC may certify whether or not the actions proposed by a holder of a sec. 404 permit would affect water quality and wetlands, and the commission may require the permit holder to take additional mitigation actions. Sec. 404 permits are required for projects proposing to place dredge and fill materials into water or wetlands.

GOVERNOR'S REASON FOR VETO:

"The general purpose of HB 2977, to encourage development of a regional flood control plan for Harris County, is sound. However, the bill contains a provision which eliminates the state's role in protecting water quality for development projects on wetlands. This provision could weaken water quality protection and invite additional federal involvement in environmental matters."

RESPONSE:

Rep. Peggy Hamric, the author of the bill, said: "HB 2977 developed a regional approach to flood control and water quality issues and streamlined several layers of local, state, and federal regulations. The regional plan would have kept the current wetlands permitting system in place for areas in heavy flood-prone areas of Harris County, yet allowed Harris County Flood Control, in cooperation with the TNRCC and the Corps of Engineers, to develop a streamlined and consolidated wetland permitting program in areas which are not flood-prone."

Sen. Jon Lindsay, the Senate sponsor, had no comment on the veto.

NOTES:

HB 2977 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

HB 1 by Junell, the general appropriations act for fiscal 2000-01, includes Rider 27 under TNRCC's budget, which prohibits TNRCC from using appropriated funds for certification of federal permits issued by the U.S. Army Corps of Engineers under sec. 404 of the Clean Water Act, except for reviews of federal permits required in order to maintain delegation of a federal program or to comply with a requirement of federal law.

Authorizing Carson County attorney to prosecute felonies

HB 3120 by Chisum (Haywood)

DIGEST:

HB 3120 would have required the county attorney of Carson County to prosecute Carson County felony cases before the 100th District Court, which covers Carson, Childress, Collingsworth, Donley, and Hall counties. The district attorney for the 100th Judicial District would have been elected by the voters and represented the state in all counties in the district except Carson County. The Carson County attorney would have been entitled to the same amount of compensation as the state provides for district attorneys, except that Carson County and the state jointly would have paid the salary. If there were no county attorney in Carson County, the district attorney of the 100th Judicial District would have prosecuted Carson County cases.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 3120, which proposes that the county attorney for Carson County be given authority to prosecute felony cases, received no funding from the Legislature to accomplish its purposes. These felony cases are currently prosecuted by the district attorney for the 100th Judicial District."

RESPONSE:

Rep. Warren Chisum, the author of HB 3120, said: "The issue about having a felony prosecutor for Carson County was brought to me by the commissioners court of Carson County, who have a backlog of inmates in their county jail. The fact that the governor vetoed the legislation does not eliminate the problem for the commissioners court, but this will surely focus the need for more felony prosecution in the 100th Judicial District."

NOTES:

HB 3120 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Travis County probate court jurisdiction and transfer of cases

HB 3635 by Naishtat (Wentworth)

DIGEST:

HB 3635 would have specified that the jurisdiction of the Travis County Probate Court included all proceedings instituted under the Health and Safety Code, rather than only those cases governed by the Persons with Mental Retardation Act (Health and Safety Code, chapters 591-597). The bill also would have allowed the Travis County Probate Court to transfer cases involving a personal representative with a matter pending before the probate court in other district, county, or statutory courts to the Travis County court. The bill would have removed the requirements that the judge of the other court consent to the transfer and that the personal representative be acting in that capacity in the other case.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 3635 is an unwarranted expansion of the Travis County Probate Court's jurisdiction. House Bill No. 2580, which I have signed into law, more appropriately addresses a probate court's jurisdiction over cases pending in other state courts."

RESPONSE:

Rep. Elliott Naishtat, the author of HB 3635, said the governor's veto creates an ambiguity that the courts will have to resolve eventually. The governor's veto proclamation stated that HB 2580 covered this issue, but it remains to be determined how that law applies to specific situations.

Sen. Jeff Wentworth, the Senate sponsor, said: "House Bill No. 3635 was basically a cleanup of the language in the specific statute that governs Probate Court No. 1 of Travis County, which was already overridden by existing statutes, and a bill from this session signed into law by the governor. This bill did not expand the jurisdiction of this probate court at all."

NOTES:

HB 3635 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

HB 2580 by Hartnett provides for the transfer of a cause of action or guardianship proceeding in which the personal representative of an estate pending before a statutory probate court is a party. HB 2580, which will take effect September 1, 1999, passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Appeals of driver's license suspensions, denials, cancellations, revocations

HB 3685 by Flores (Lucio)

DIGEST:

HB 3685 would have revised laws dealing with appeals of driver's license suspensions, denials, cancellations, and revocations. It would have changed the way a petition for an appeal is filed, the subsequent staying of an order of cancellation, suspension, or revocation, and appeals of certain judicial decisions and Department of Public Safety actions.

GOVERNOR'S REASON FOR VETO:

"House Bill No. 3685, which addresses the appeal of driver's license decisions by the Department of Public Safety, is unnecessary. These decisions, which involve DWI, drug offenses, suspensions for habitual violators, and suspensions for failure to maintain auto insurance, are fully addressed in House Bill No. 3641, which I have signed into law."

RESPONSE:

Rep. Kino Flores, the author, said that he had worked on both HB 3685 and HB 3641 to ensure that this issue was covered, and that HB 3641, which was signed into law, addressed the issue.

Sen. Eddie Lucio, the Senate sponsor, said: "As for House Bill 3685, I think Governor Bush felt that this issue was already addressed in another piece of legislation. Our intent with HB 3685 was to ensure that this important issue made it to his desk, either in this bill or another. Since it seems to be covered in another bill, HB 3685 would have been unnecessary."

NOTES:

HB 3685 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Authority to appoint attorneys for indigent criminal defendants

SB 247 by Ellis (Hinojosa)

DIGEST:

SB 247 would have moved the responsibility for appointing attorneys to defend indigent criminal defendants from courts to an appointing authority to be designated by county commissioners courts. Appointing authorities would have had to distribute appointments among qualified attorneys according to a public list. An authority could have appointed an attorney out of order if the authority provided a written statement with the reason for the appointment. Criminal defendants would have had to be given a written statement telling them how to request an appointed attorney.

If the appointing authority had not appointed an attorney for an indigent defendant within 20 days of the person's requesting counsel, the defendant would have had to be released from jail either on personal bond or by reducing the amount of bail required. Defendants could have been detained at any time after counsel had been appointed and the defendant had been given an opportunity to confer with counsel.

The current authority of some commissioners courts to appoint public defenders would have been extended to all commissioners courts. Nonprofit legal corporations established to provide legal services to the indigent would have been eligible to be appointed as public defenders.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 247 proposes a drastic change in the way indigent criminal defendants are assigned counsel. While well-intentioned, the effect of the bill is likely to be neither better representation for indigents nor a more efficient administration of justice. The bill inappropriately takes appointment authority away from judges, who are better able to assess the quality of legal representation, and gives it to county officials. The bill creates the potential for counties to set up a new layer of bureaucracy that could result in increased backlogs and decreased court efficiency. In addition, the bill poses a danger to public safety by requiring a judge to release a defendant if the defendant has not been assigned a lawyer within 20 days of requesting one."

RESPONSE:

Sen. Rodney Ellis, the bill's author, said: "I am very disappointed that Governor Bush vetoed Senate Bill 247, which would have strengthened Texas' indigent criminal defense system. This bill represented a modest but important step in the right direction toward reforming a system that desperately needs modernization.

"The harsh reality is that poor defendants get a poor defense in our current system — they have no lobbyists or natural constituency. It is scatter-shot, inefficient, and not accountable to anyone. If we are going to lead the world in incarcerations and executions, then we should at least make sure that defendants are guaranteed effective legal representation.

"All of us benefit from public confidence in and support of the integrity and fairness of the criminal defense system. The size of a defendant's bank account should not determine the quality of justice that defendant receives, but too often that is the case. This new law would have been a major step toward restoring and enhancing public trust in the system.

"I understand that Governor Bush was contacted by many judges in Texas who asked him to veto the bill. But I am eager to work with all interested parties, including judges, to improve, enhance and instill confidence in the indigent criminal defense system in Texas.

"Justice is on trial in Texas and the policy discussion may have to be resolved in a courthouse instead of the Legislature."

Rep. Juan Hinojosa, the House sponsor, said: "This legislation would simply give another option to our counties. It would provide a stronger but more cost-efficient legal representation system. It is good public policy and would increase the quality of representation for the indigent." SB 247 would not be a mandate, he said, but simply would afford counties another tool to provide constituents with the best legal representative possible.

NOTES:

SB 247 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Recovery of attorneys' fees in certain insurance claims

SB 321 by Ellis (Smithee)

DIGEST:

Texas law allows the recovery of attorneys' fees in certain contract cases but limits the application of the fee recovery statute when claims are made under certain sections of the Insurance Code that provide separately for recovery of attorneys' fees. SB 321 would have specified that the attorneys' fee statute would not apply to insurance contracts only to the extent that fees were recovered under the sections specifically listed in the law. The bill also would have removed from the exception to the attorneys' fee statute two sections that have been repealed and would have added to the listed exceptions art. 21.55 of the Insurance Code, dealing with prompt payment claims.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 321 would likely result in higher insurance costs for Texas consumers and encourage unnecessary litigation. Current law allows recovery of attorneys' fees when an insurance company has acted deceptively or unfairly."

RESPONSE:

Neither Sen. Rodney Ellis, author of SB 321, nor Rep. John Smithee, the House sponsor, was available for comment.

NOTES:

SB 321 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Meet and confer agreements for Houston transit authority peace officers

SB 621 by Gallegos (Farrar)

DIGEST:

SB 621 would have allowed an association representing peace officers employed by the Houston Metropolitan Transit Authority to be recognized as the sole and exclusive bargaining agent for peace officers to meet and confer concerning wage and employment conditions. If the authority and the association could not agree on terms or conditions of employment, those issues would have been governed by applicable statutes and local rules and regulations.

A public employer and an association could have met and conferred only if the association did not advocate the illegal right to strike by public employees. Written agreements between the employer and the association would have been binding on the employer.

SB 621 did not include a provision found in other "meet and confer" statutes for fire fighters and police officers allowing a specified number of registered voters to petition to call an election to repeal the agreement by majority vote.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 621 deprives local citizens of the right to disapprove agreements made with transit authority peace officers under this bill's 'meet and confer' provisions. This bill departs from existing 'meet and confer' laws."

RESPONSE:

Sen. Mario Gallegos, the author of SB 621, had no comment, and Rep. Jessica Farrar, the House sponsor, was unavailable for comment.

NOTES:

SB 621 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Insurance agent license structure, bail bondsmen's liability

SB 956 by Madla (Eiland)

DIGEST:

SB 956 would have reorganized the license structure for insurance agents and made numerous changes to relevant licensing laws. It also would have required that contracts for bail bondsmen provide that a bondsman was not liable for default by the defendant until the first anniversary of the date the court declared the defendant in default. The liability of the agent would have been fully discharged if, before the first anniversary of the default date, the defendant was placed in custody in any jurisdiction or the bail bondsman presented satisfactory evidence of any other good cause for the defendant's not being in court as required.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 956 was intended to be a beneficial revision of the Texas insurance agent licensing laws. Late in the session, however, an unrelated amendment was added to the bill that relieves bail bondsmen from any liability on bond forfeitures for one year. This provision jeopardizes public safety by weakening the obligation of bondsmen to ensure criminal defendants appear in court."

RESPONSE:

Sen. Frank Madla, author of SB 956, had no comment on the veto.

Rep. Craig Eiland, the House sponsor, said: "While the governor's veto proclamation says that the language in question came out late in the session, the language was placed in a committee substitute almost three weeks before the session ended. The House committee report contained the provision and was voted out of committee on May 11 and printed and distributed on May 14. This left over two weeks before the Senate concurred in that version of the bill on May 30. No opposition was voiced at any time."

NOTES:

SB 956 was analyzed in Part Two of the May 20 *Daily Floor Report*.

Crediting of state refunds

SB 1434 by Duncan (Puente)

DIGEST:

SB 1434 would have required the comptroller to credit the amount due to a person claiming a refund of money mistakenly paid to the state against any other amount due to the state from that person and to refund the remainder. Government Code, sec. 403.077, which the bill would have amended, does not apply to tax refunds.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 1434, which addresses the crediting of refunds by the comptroller against money owed to the state, is unnecessary. The objectives of the bill are more fully addressed in House Bill No. 3211, which I have signed into law."

RESPONSE:

Sen. Robert Duncan, the author of SB 1434, said: "Similar provisions were included in HB 3211." Therefore, his office asked for the bill to be vetoed.

Rep. Robert Puente, the House sponsor, was unavailable for comment.

NOTES:

HB 3211 by McCall, which took effect June 19, 1999, is a broad-ranging measure dealing with state fiscal matters. Sec. 1.16 of the bill allows the comptroller, after giving notice, to deduct the amount of a person's indebtedness to the state or tax delinquency from any amount, other than compensation to a state employee, that the state owes the person.

Neither HB 3211 nor SB 1434 was analyzed in a *Daily Floor Report* because both bills passed the House on the Local, Consent, and Resolutions Calendar.

Regulating the provision of nutrition services

SB 1525 by Madla (Uher)

DIGEST:

SB 1525 would have amended the Licensed Dietician Act to:

- include medical nutrition therapy in the definition of nutrition services;
- specify that the Board of Examiners of Dieticians is the only agency authorized to adopt standards to determine the qualifications of a licensed dietician to provide nutrition services;
- make the provision of nutrition services for compensation by an unlicensed person a Class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of $2,000;
- authorize unlicensed individuals to give without compensation advice on the use and role of food and supplements; and
- specifically exempt from licensing requirements related to the provision of nutrition services other licensed health-care professionals, student dieticians or dieticians in training or under supervision, and people employed as dieticians by a government agency or by a charitable, nonprofit organization.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 1525 amends the Licensed Dietician Act to require the licensure of persons who merely give nutritional counseling, inappropriately extending governmental regulatory control to those who simply give advice about good nutrition."

RESPONSE:

Sen. Frank Madla, the author of SB 1525, said: "There was a great deal of misinformation about the actual effect of this bill. The legislation would have provided individuals who are *purchasing* advice about nutritional information an expectation of a 'minimum level' of qualifications and expertise. Apparently there is much disagreement in the industry as to how to define that 'minimum level.' While I strongly believe that there is a public safety issue addressed by SB 1525, I respect Governor Bush's view that another approach to the issue may be more appropriate."

Rep. Tom Uher, the House sponsor, said: "I requested the governor's office to veto the bill because a floor amendment went too far and had unintended consequences for nutritionists."

NOTES:

SB 1525 was analyzed in the May 18 *Daily Floor Report*.

Guaranteed construction loans for low-income housing

SB 1703 by Ellis (Cuellar)

DIGEST:

SB 1703 would have directed the Texas Department of Housing and Community Affairs (TDHCA) to create a pilot interim construction loan program. Under the pilot program, TDHCA would have provided loan guarantees for interim construction loans made by construction supply companies or nonprofit housing supply corporations to eligible owner-builders. Eligibility criteria would have included a priority for individuals and families of very low or extremely low income. TDHCA also would have been directed to provide assistance in refinancing interim construction loans to provide private market rate mortgages for participating owner-builders. TDHCA could not have used state funding to guarantee loans under the program.

GOVERNOR'S REASON FOR VETO:

"The goal of Senate Bill No. 1703, to encourage more low-income housing, is better accomplished through Senate Bill 1287, which I signed into law."

RESPONSE:

Sen. Rodney Ellis, the author of the bill, was unavailable for comment.

Rep. Henry Cuellar, the House sponsor, said: "It is unfortunate that this bill was vetoed because it would have been an innovative way of helping poor people in colonias. It would have provided access to building supplies by creating a partnership between the public and the private sector. The bill was similar to a recommendation made in *Challenging the Status Quo*, a report by the comptroller's Texas Performance Review in March 1999."

NOTES:

SB 1703 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

SB 1287 by Lucio, et al. creates an owner-builder loan program to provide loans through colonia self-help centers or nonprofit owner-builder housing programs for purchasing or refinancing land for new housing, building new residential housing, or improving existing housing. Loans may not exceed $25,000, and TDHCA may use funds from the state-funded Housing Trust Fund, federal block grants, amounts received by TDHCA in repayment of loans, and gifts and grants.

Requiring TNRCC to waive certifications of certain federal permits

SCR 56 by Lindsay (R. Lewis)

DIGEST:

SCR 56 would have required the Texas Natural Resource Conservation Commission (TNRCC) to amend its rules to waive certifications allowed under sec. 401 of the federal Clean Water Act for projects for which the U.S. Army Corps of Engineers already had conducted reviews under sec. 404 of the act. Sec. 404 permits are required for projects proposing to place dredge and fill materials into water or wetlands. TNRCC would have had to waive sec. 401 certifications except in cases where it was necessary to maintain delegation or approval of a federally delegated or approved program.

Under sec. 401 of the Clean Water Act, TNRCC may certify whether or not the actions proposed by a holder of a 404 permit would affect water quality and wetlands, and the commission may require the 404 permit holder to take additional mitigation actions before proceeding.

GOVERNOR'S REASON FOR VETO:

"Senate Concurrent Resolution No. 56 directs the Texas Natural Resource Conservation Commission to reduce its role in protecting water quality for development projects on wetlands. This provision could weaken water quality protection and invite additional federal involvement in environmental matters."

RESPONSE:

Sen. Jon Lindsay, the author of SCR 56, had no comment on the veto.

Rep. Ron Lewis, the House sponsor, said: "I sponsored this legislation out of an interest in preventing the duplication of efforts between the TNRCC and the Corps of Engineers. The corps has done a commendable job in protecting the wetlands. My intent was to decrease the burden on the TNRCC and allow the Corps of Engineers to continue in their successful efforts. I completely understand the governor's concern for the environment and admire him for the role he has played in protecting the natural resources of this state."

NOTES:

SCR 56 was adopted by the House on the Resolutions Calendar and was not analyzed in a *Daily Floor Report*. HB 1 by Junell, the general appropriations act for fiscal 2000-01, includes Rider 27 under TNRCC's budget, which prohibits TNRCC from using appropriated funds for certification of federal permits issued by the U.S. Army Corps of Engineers under sec. 404 of the Clean Water Act, except for reviews of federal permits required in order to maintain delegation of a federal program or to comply with a requirement of federal law.

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